ARIZONA POLLUTANT DISCHARGE ELIMINATION SYSTEM

GENERAL PERMIT FOR DE MINIMIS DISCHARGES TO WATERS OF THE U.S.

Permit No. AZG2016-001

RESPONSE TO COMMENTS

(A.A.C. R18-9-A908(E)(3))

Administrative Record

The accompanying Fact Sheet sets forth the basis for issuance of the 2016 Arizona National Pollutant Discharge Elimination System (AZPDES) De Minimis General Permit (DMGP), No. AZG2016-001, by the Arizona Department of Environmental Quality (ADEQ). The DMGP is intended to provide permit coverage for point source discharges to Waters of the United States that meet the applicable surface water quality standards; that are low-flow and/or low-frequency, or otherwise determined by ADEQ to be appropriate for DMGP coverage; that are conducted with appropriate best management practices; and that do not last continuously for longer than thirty (30) days unless otherwise approved in advance by ADEQ. The DMGP is applicable within the State of Arizona, except for Indian Country.

The previous DMGP, AZG2010-001, expired on April 26, 2015, but will remain administratively continued until the effective date of the 2016 DMGP.

Prior to ADEQ preparing the draft permit and providing public notice, three public meetings were held during a preliminary comment period, September 3 through October 17, 2014. Stakeholders were invited to submit input on the resulting draft permit and fact sheet during an informal comment period, March 20 through April 8, 2015. Representatives of two municipalities and the Salt River Project submitted comments during that period, and ADEQ made several revisions to the permit in response.

The public notice (PN) for the draft DMGP was published in the Arizona Administrative Register on June 12, 2015 (Notice of Public Information No. M15-116). The above-referenced Fact Sheet includes a list of substantive changes that were made in the PN draft permit from the 2010 DMGP. Public comments were accepted by the Department through July 13, 2015. Representatives of two municipalities and one Arizona state agency submitted comments during the PN period.

SUMMARY OF CHANGES from draft permit to final permit

ADEQ has made revisions to the permit in response to comments received during the PN period, and in consideration of Federal regulatory requirements. The following is a summary of significant changes between the PN draft and final permit, with references to further information in this document or in the accompanying AZPDES Fact Sheet. Additional information and minor changes are addressed in the comments and responses which follow this summary.

1. **Multiple sections: faxing is no longer listed.** Faxing is no longer specified as a submittal method because the current pace of change in communications technology makes it inappropriate to specify any one mode of electronic submittal in the permit. This change was made in **Part II.E.; Part IV.E.2.c. & d.; Part VII.B., definition of "Date received"**; and **Appendix A, Part B.3.** Faxing was previously removed as

a mode of submittal for Notices of Intent (NOIs), as explained in the "Changes" item for **Part III.C.** in the accompanying Fact Sheet.

2. **Multiple sections: ADEQ may specify another method of submittal.** In several sections of the permit, the mailing address or phone number for submittals or reporting is now followed by the proviso, "*unless ADEQ specifies another method of submittal*". This change is intended primarily to allow for implementation of the US EPA's recently published rule requiring electronic submittals in the future (for details, see the item pertaining to **Appendix A, Part B.1.a.i.,** in this list of changes**).**

3. **Part I.B.1.c. and I.C.4., coverage for potable waterline breaks and leaks.** Discharges resulting directly from potable water pipeline breaks and leaks are now conditionally eligible for DMGP coverage. See response to comments under "**TOPIC B**", below.

4. **Part II.C.2., water quality data for added discharges.** For discharges that would require water quality data to be submitted with a new Notice of Intent, the permit now also requires such data when adding a discharge source to an existing Areawide, Projectwide, of Facilitywide authorization. See **RESPONSE TO COMMENT 8**, below.

5. **Appendix A, Section A.3., visual observation monitoring for oil and grease.** Under "**Oil and Grease**", a sentence has been added to clarify the type of results to be recorded if the permittee conducts visual observation to monitor for oil and grease; *i.e.*, the results must indicate whether or not a surface film was observed. See **RESPONSE TO COMMENT 19**, below.

6. **Appendix A, Part A, new item 7, exceptions to monitoring requirements.** This item provides exceptions to requirements for numeric monitoring and photographic documentation for discharges from potable water systems under certain conditions. See **RESPONSE TO COMMENT 16**, below.

7. **Appendix A, Part B.1.a.i., for future electronic reporting.** In the PN draft permit, this section specified that certain monitoring results must be submitted on a De Minimis Discharge Monitoring Report Form unless ADEQ notifies the permittee otherwise. The final permit simply states that such results must be reported on a form as prescribed by the Director.

   This change was made in consideration of a recently published US EPA regulation which requires electronic reporting and sharing of Clean Water Act National Pollutant Discharge Elimination System (NPDES) program information instead of the current paper-based reporting (*Federal Register*, Vol. 80, No. 204, October 22, 2015). Beginning December 21, 2016 (one year after the effective date of the regulation), the Federal rule requires permittees to make electronic submittals of any monitoring reports and forms called for in their permits. The requirement takes effect for other NPDES-related documents and reports on December 21, 2020. ADEQ or US EPA will provide advance notification about specific requirements and procedures for electronic reporting before these requirements take effect. For information about receiving updates on this subject please see the accompanying AZPDES Fact Sheet ("Appendix A – Monitoring and Reporting Program" section).

8. **Appendix A, Part B.1.c., new exceptions to reporting requirements.**

   - Submittal is not required for photographic documentation conducted pursuant to Appendix A, Part A.5., unless specifically requested by ADEQ.

- If the only numeric monitoring required for the discharge was for flow rate and duration of flow, submittal of monitoring results is not required unless specifically requested by ADEQ.

These exceptions were added because ADEQ has gathered sufficient information from such submittals during past DMGP permit terms, and no longer needs to receive this information routinely. However, the permittee must still retain the above monitoring data and any required photographic documentation (Appendix A, Part B.4.a.), and make them available to ADEQ upon request (Part IV.E.2.a.). ADEQ may require additional reporting as appropriate in specific cases.

Two provisions that appeared in this section of the PN draft permit (formerly Appendix A, Parts B.1.c.ii. and iii) have been deleted from the final permit and are no longer mentioned in the Fact Sheet. They provided exceptions to reporting requirements for monitoring of certain discharges from potable water systems. They are no longer relevant because exceptions from monitoring are now provided for the types of discharges they addressed (see item addressing **Appendix A, Part A.7.**, above).

9. **Part IV.E.2.d., annual reporting of noncompliance.** The PN draft permit called for reporting of all instances of noncompliance (unless subject to 24-hour reporting under Part IV.E.2.c) at the time the Notice of Termination (NOT) and/or discharge monitoring reports are submitted. However, long-term permittees may never submit NOTs, and they may have only a single due date (February 28, 2020) for submitting discharge monitoring reports. Federal rules governing the AZPDES program require reporting of any such instances noncompliance at least annually (40 CFR §122.44(i)(5), adopted by reference in A.A.C. R18-9-A905(A)(3)(d)). For conformance with this rule, the final permit requires reporting by February 28 each year for any such noncompliance that occurred during the previous calendar year. See related **RESPONSE TO COMMENT 11**, below.

10. **Appendix A, Part A.3., Table 1, sensitivity requirement for field screening equipment for total residual chlorine (TRC).** For discharges to perennial, intermittent, or effluent-dependent waters, the sensitivity requirement has been changed from 0.019 mg/L to the limit of detection (LOD) of equipment utilizing Hach Method 8167 or equivalent. See **RESPONSE TO COMMENT 15**, below.

TOPICS WITH MULTIPLE COMMENTS

TOPIC A: Applicability of Aquifer Water Quality Standards

COMMENTS

Tempe is concerned with ADEQ's attempt to incorporate Aquifer Water Quality Standards (AWQS) and/or components of ADEQ's Aquifer Protection Permit (APP) Program into this AZPDES permit. As an AZPDES Permit, the DMGP's scope should be limited to point source discharges to Waters of the United States and remain consistent with regulations established in 40 CFR Part 122 and A.A.C. R18-11, Article 1. Tempe's recognizes and appreciates ADEQ's efforts to protect Arizona's aquifers, however regulatory authority for such protection already exists under the existing APP Program and should not be duplicated under the AZPDES program. Additionally, inconsistency between the different standards creates difficulty and administrative burden. Reference Draft Permit – Part I C.12. and Part VII B. "Constituent of Concern" definition.

City of Tempe

Part I C.12. This section should clearly state that the "water quality standards" being referenced are "Surface Water Quality Standards" (SWQS). This will avoid confusion with AWQS, which are not enforceable under the AZPDES program.

City of Tempe

Part IV.B.4.g – The statement that discharges are prohibited from causing or contributing to a violation of an Aquifer Water Quality Standard, as prescribed by R18-11-405 or R18-11-406 should be removed. The DMGP covers discharges to waters of the United States in Arizona, per Arizona Administrative Code R18-11-107. Discharges to aquifers are regulated by ADEQ's Aquifer Protection Permit (APP) program. Incorporation of AWQS in this permit amounts to duplicative permitting.

City of Phoenix

Part VII B. - Constituent of Concern. The definition for "constituent of concern" should not include any constituent "that has the potential to cause or contribute to a violation of an AWQS". The DMGP is not an APP. Discharges that have the potential to cause or contribute to a violation of an AWQS are regulated by ADEQ's APP program.

City of Tempe

RESPONSE (TOPIC A)

Regarding **Part I.C.12:** De Minimis discharges, by definition in DMGP Part VII.B., meet the applicable surface water quality standards (SWQS)(18 A.A.C. 11, Article 1). Accordingly, Part I.C.12. (under "Limitations on Coverage") states the DMGP does not authorize "discharges that cause or contribute to exceedences of Arizona water quality standards". The SWQS contain both numeric standards and narrative standards (R18-11-108(A)). The narrative standard at R18-11-108(A)(7) states that a surface water shall not contain pollutants in amounts or combinations that *"Cause or contribute to a violation of an aquifer water quality standard prescribed in R18-11-405 or R18-11-406."* Because the SWQS include this proviso pertaining to Arizona's aquifer water quality standards (AWQS), the language in DMGP Part 1.C.12. is intended to reference both.

Regarding **Part IV.B.4.g.** (under "Discharge Prohibitions"): this proviso directly quotes and cites the corresponding narrative surface water quality standard referenced above (R18-11-108(A)(7)). In the definition of "Constituent of Concern" (COC) in **Part VII.B.,** the language pertaining to violation of an AWQS is likewise based on the narrative SWQS (R18-11-108(A)(7)).

Although no change has been made to the above-referenced permit language, it should be noted that the cited AWQS (R18-11-405 and -406) apply to aquifers. Violation of an AWQS would occur in ground water rather than at the point of a De Minimis discharge to surface waters. This is reflected in the section of the Fact Sheet addressing Part IV.B. Although a De Minimis discharge would be unlikely to cause or contribute to a violation of AWQS in an aquifer, the narrative standard and the corresponding DMGP provisions serve as a safeguard against such an impact.

No change was made to the permit in response to these comments.

TOPIC B: Coverage for potable water pipeline breaks and leaks.

COMMENTS

"The DMGP-2010 allowed coverage for potable water releases directly from system line breaks and leaks, while the draft 2015 permit Section I.C.4 explicitly does not. However, other sections of the permit allow coverage for releases from "repair of line breaks [including potable water] at locations not known in advance" (III.B.10 Exceptions) and "overflows and pressure releases" from potable water systems when related to maintenance and repair (I.B.1.b). The City considers releases directly from line breaks and leaks from potable water systems to be the same as releases from unplanned repair of line breaks and/or pressure releases associated with maintenance and repair, and should continue to be authorized under the 2015 permit. Therefore, the prohibition at I.C.4, should be removed or qualified with "except for potable water system line breaks/leaks". The difference between these types of discharges appears primarily semantic and, as a practical matter, the nature of the discharges and their water quality are nearly identical. Note that an overall exemption from permit requirements for all discharges of potable water meeting safe drinking water standards, as the City is requesting, would eliminate the need to remove or qualify the prohibition at I.C.4."

City of Phoenix

"Part I.B.1.b – Discharges resulting from pressure releases or overflows in the potable water system are approved for coverage under the DMGP. The City considers potable water system spills to be in this category and should also be eligible for permit coverage."

City of Phoenix

"Draft Fact Sheet, Part I.C.4 – On Page 10, ADEQ states that pipeline breaks, leaking lines/facilities are not covered by the DMGP and are considered spills. As discussed in the General comments section, when these types of releases are from potable water systems, they are normally identical in nature (duration and water quality) -- if not superior to -- the allowable "pressure releases and overflows" and allowable unplanned "repair of line breaks" and should be allowed by the Permit."

City of Phoenix

RESPONSE (TOPIC B)

ADEQ believes it is appropriate to extend DMGP eligibility to discharges resulting directly from potable water pipeline breaks and leaks provided they do not exceed the applicable permit limit for total residual chlorine; they are halted as soon as practicable; and any impacts to waters of the U.S. and/or risks to surface water quality are remediated as necessary. The permit limits are based on the Surface Water Quality Standards (18 A.A.C. 11, Article 1). Discharges exceeding those standards are not eligible for DMGP coverage (DMGP Part VII.B., definition of "De Minimis discharge"; Part I.C.12., Limitations on Coverage; and Part IV.B.3., Discharge Prohibitions). Although this is true for any applicable limit or standard, TRC is the main potential constituent of concern for potable water.

In response to the above comments, changes have been made to DMGP Parts I.B.1. and I.C.4 to allow coverage for such discharges. Due to the unpredictable nature of pipeline breaks and leaks, such coverage is available only under established Areawide, Facilitywide, or Projectwide discharge

authorizations (DMGP Parts II.A.5.though -7.), because they can include unspecified discharge locations. The corresponding sections of the Fact Sheet have been modified accordingly.

This change in DMGP eligibility does not affect DMGP Part IV.E.2.c., which requires twenty-four hour reporting and a written follow-up for any discharge that may endanger human health or the environment.

TOPIC C: DMGP coverage for discharges covered under Multi-Sector General Permit.

COMMENTS

"Part I.B.1. Discharges described in items a, b, and d of this section are explicitly allowable non-stormwater discharges under the ADEQ Multi-Sector General Permit (MSGP) for Stormwater Discharges Associated with Industrial Activities. DMGP permit coverage and associated monitoring/reporting required should not be required when these types of ancillary discharges are from a facility permitted under the MSGP; otherwise, the permitting requirements are duplicative."

"Part I.B.2 – According to the note at the end of this section, subterranean dewatering discharges containing incidental collection of stormwater would be covered by the DMGP. This coverage is duplicative with the MSGP-2010, so DMGP coverage and requirements should not apply to these discharges when from MSGP-permitted facilities."

"Part I.B.3 – Items a-d are already covered by the MSGP-2010, so DMGP coverage and requirements should not apply when these types of releases are from facilities permitted under the MSGP."

"Part I.B.4.a – Discharges of groundwater, surface water, or potable water associated with testing of new pipes, tanks, or vessels, are already covered by the MSGP-2010. Requiring coverage under the DMGP is duplicative and burdensome to MSGP facilities and should not be required."

City of Phoenix

RESPONSE (TOPIC C)

DMGP coverage is not required for allowable non-stormwater discharges that are covered by either of the 2010 MSGPs (Mining or Non-mining), under a current MSGP authorization. The statutory requirement for such discharges to have permit coverage (A.R.S. §49-255.01(A)) is met by MSGP coverage.

Additional information about MSGP coverage: Allowable non-stormwater discharges are listed in MSGP Part 1.1.3., and are also addressed in Sector-specific provisions in MSGP Part 8. The MSGP permittee's Stormwater Pollution Prevention Plan (SWPPP) must identify: all outfalls having the potential to contain allowable non-stormwater discharges; the type(s) of such discharges; and the control measures implemented for them (MSGP Parts 2.1 and 5.1).

No change to the permit was necessary in response to these comments.

TOPIC D: Exemption requested for discharges from potable water systems.

COMMENTS

Potable Water System Discharges: While the City fully supports ADEQ's goal to be protective of the environment through issuance of the DMGP, complying with the terms of this permit for potable water system releases is unnecessarily and unjustifiably difficult and expensive for municipalities that operate water treatment and distribution systems. The City requests exemption from DMGP requirements for discharges of potable water that are known to meet all safe drinking water standards, such as discharges from wells approved for drinking water use, draining of potable water storage tanks, and releases from potable water distribution systems, for the reasons described below.

Compliance with two different sets of standards for potable water – safe drinking water standards for public water systems in Arizona Administrative Code (AAC) Title 18 Chapter 4 (hereafter referred to as "safe drinking water standards") as mandated by the federal Safe Drinking Water Act (SDWA), and ADEQ Surface Water Quality Standards (SWQS) as required by AAC Title 18 Chapter 11 in DMGP Section IV.B.3 -- creates operational challenges and additional monitoring and administrative requirements that add negligible protection of the environment.

For example, although the draft permit discharge limitations for chlorine can theoretically be achieved in order to meet SWQS that are lower than safe drinking water standards, options such as re-routing the discharge to sanitary sewer, hauling the water off-site, using frac tanks, or conducting additional treatment are typically operationally infeasible and cost-prohibitive. For other potential constituents of concern where SWQS may be lower than safe drinking water standards and/or background levels, there is no feasible method at the remote point of discharge to "implement practices or treatments as necessary to further reduce the level of constituents of concern in the discharge." (Part IV.C.2)

City of Phoenix

Part I.B.1.d – As discussed in General Comments section, the City requests that wells approved for drinking water use, (as well as other potable water that meets safe drinking water standards), be exempt from the De Minimis permit requirements. The water quality of these wells is well-known and sampling is required and routinely conducted for compliance with the SDWA. As a result, the water quality is already regulated by the U.S Environmental Protection Agency and enforced by ADEQ and the Maricopa County Drinking Water Program. The additional monitoring and recordkeeping requirements are unnecessarily and unjustifiably burdensome given the nature of the discharge and provide no additional protection to human health and the environment.

City of Phoenix

Part IV.B.3 – According to this section, "discharges that cause or contribute to a violation of any applicable numeric surface water quality standard …" are prohibited. As discussed in the General Comments section, SWQSs may be lower than safe drinking water standards, so the City requests that releases of potable water that clearly meets all safe drinking water standards be exempted from this provision.

City of Phoenix

Part IV.C.2 – This section requires the permittee to "implement alternative practices or treatments as necessary to further reduce the level of constituents of concern in the discharge; or terminate discharge" if an alert level (AL) is exceeded. As discussed in the General Comments section, for some COCs that are normally present in safe drinking water, it is not feasible to treat to SWQS levels. Again, the City requests exemption from all of these permit requirements for potable water that meets safe drinking water standards.

City of Phoenix

RESPONSE (TOPIC D)

While it is understandable that the commenters would like to simplify compliance requirements, ADEQ does not have authority to exempt categories of discharges from the need for AZPDES permit coverage. The Federal Clean Water Act, Arizona statute, and associated regulations require permit coverage for point source discharges to waters of the U.S., with certain exclusions (A.A.C. R18-9-A902(G)) that would not apply to potable water discharges. The DMGP offers a means of obtaining the required coverage as an alternative to individual AZPDES permits, which would have far more complex monitoring and reporting requirements.

Surface Water Quality Standards are established in A.A.C. R18-11, Article 1, in accordance with A.R.S. §49-255.01. Drinking water standards, while essential for protecting human health, are under separate legal authority, and meeting them is not the same as compliance with the SWQS. If it is not feasible to treat a potable water discharge to meet the applicable SWQS, then the discharge would not be eligible for DMGP coverage. In that case the discharger would need to apply for an individual AZPDES permit (which could incorporate a mixing zone or a variance), or find a way to dispose of the water without discharging to waters of the U.S.

No change was made to the permit in response to this comment. However, monitoring requirements for discharges from potable water systems have been modified as described in RESPONSE TO COMMENT 16, below, and the item addressing **Appendix A, Part A, new item 7,** in the SUMMARY OF CHANGES near the beginning of this document.

SINGLE COMMENTS

The following are on topics addressed by single comments, arranged by section of draft permit.

GENERAL

COMMENT 1:

General comment. Tempe maintains a concern that this permit effectively takes away municipal discretion to identify which discharges to the municipal separate storm sewer system may be significant sources pollutants to waters of the U.S. Such discretion is granted to municipalities in 40 CFR Part 122, Section 26, Paragraph (d)(2)(iv)(B)(1):

…the following category of non-storm water discharges or flows shall be addressed where such discharges are identified by the municipality as sources of pollutants to waters of the United States: water line flushing, landscape irrigation, diverted stream flows, rising ground waters, uncontaminated ground water infiltration (as defined at 40 CFR 35.2005(20)) to separate storm sewers, uncontaminated pumped ground water, discharges from potable water sources, foundation drains, air conditioning condensation, irrigation water, springs, water from crawl space pumps, footing drains, lawn watering, individual residential car washing, flows from riparian habitats and wetlands, dechlorinated swimming pool discharges, and street wash water (program descriptions shall address discharges or flows from fire fighting only where such discharges or flows are identified as significant sources of pollutants to waters of the United States);

Tempe urges ADEQ to focus limited resources on programs and permits that provide more environmental benefit and allow municipal entities to exercise discretion concerning the non-stormwater discharges identified above.

City of Tempe

(NOTE: In a subsequent discussion with ADEQ, the commenter explained that the City of Tempe has viewed the DMGP as creating permit requirements for types of discharges the municipality may not identify as sources of pollutants. It has been thought that if such discharges were not properly permitted, the City would have to prohibit them from entering its MS4, which seemed inconsistent with the 40 CFR 122.26 (d)(2)(iv)(B)(1).)

RESPONSE TO COMMENT 1:

This permit does not alter the authority of regulated MS4s to exercise their discretion under the cited paragraph of 40 CFR 122.26. The municipality always has the prerogative and the responsibility for allowing or prohibiting specified types of non-stormwater discharges into its MS4. Any point source discharge to waters of the U.S. (whether directly or by way of an MS4) is subject to permit requirements under the Clean Water Act, Arizona law, and associated regulations, with certain exemptions. The DMGP provides a way to meet the statutory permit requirements for some types of discharges, subject to conditions for preventing pollution.

If a discharge has DMGP coverage to go to waters of the U.S., the MS4 may allow it on that basis or may restrict or prohibit it, according to local policy or ordinance. The DMGP (like all AZPDES permits) contains a proviso stating that it does not convey any property rights or exclusive privileges, and does not authorize any infringement of federal, state, tribal, or local laws or regulations (Part V.G.). As stated in DMGP Part II.A.10., a DMGP authorization does not convey any right or permission to utilize the MS4 to conduct discharges. Any such permission is solely under the authority of the municipality / MS4 operator.

The situation is similar for non-stormwater discharges that do not have DMGP coverage, if they are listed in 40 CFR 122.26(d)(2)(iv)(B)(1). The municipality has the discretion either to allow such discharges if not identified as sources of pollution, or to address them in its MS4 program description as illicit discharges.

No change was made to the permit in response to this comment. Language has been added to the Fact Sheet (Part I.A.) regarding MS4s' authority and the need for applicants to seek permission for the use of any conveyance.

COMMENT 2:

This draft DMGP offers appropriate alternative solutions to AZPDES permitting. The stakeholder and comment process resulted on an easy to read, comprehensive permit.

Arizona Department of Transportation

RESPONSE TO COMMENT 2:

ADEQ appreciates this positive feedback.

COMMENT 3:

On January 9, 2015 (p. 77 AAR 1/9/2015) ADEQ published a "Notice of Information" in the Arizona Administrative Register which removes the "Salt River 23rd Ave WWTP – Gila River" from the Impaired Waters List. What is the status of this Notice subsequent classification of this portion of the Salt River?

City of Phoenix

RESPONSE TO COMMENT 3:

Arizona's 2012/14 Impaired Waters list has been approved by the U.S. Environmental Protection Agency and is now final. The "Salt River - 23rd Ave WWTP – Gila River" segment has been delisted for pesticides in fish tissue and removed from the Impaired Waters list, along with several segments of the Gila River and related waters.

PART I. COVERAGE UNDER THIS GENERAL PERMIT

COMMENT 4:

Part I.B.6.a – Discharges from non-residential evaporative coolers are an allowable non-stormwater discharge under the MSGP-2010, but are not covered under the DMGP. The City requests language consistent with the MSGP-2010 for this type of discharge:

"Uncontaminated condensate from air conditioners, evaporative coolers, and other compressors and from the outside storage of refrigerated gases or liquids."

City of Phoenix

RESPONSE TO COMMENT 4:

When covered under the MSGP, discharges from non-residential (*i.e.*, industrial or commercial) evaporative coolers are subject to control measures under the MSGP's Stormwater Pollution Prevention Plan (SWPPP) requirements and other MSGP conditions. Industrial/commercial evaporative cooler discharges are beyond the scope of the DMGP coverage provided for residential evaporative coolers in Part I.B.6., which does not require preparation of a Best Management Practices Plan nor submittal of a Notice of Intent. However, operators who do not have MSGP coverage may apply for specific approval (DMGP Part I.B.7) of non-residential evaporative cooler discharges, by submitting the applicable NOI and associated materials.

No change was made to the permit in response to this comment.

COMMENT 5:

Part I.B.6.b. – The Draft Phase II Municipal Separate Storm Sewer System (MS4) and 40 Code of Federal Regulations (CFR)(d)(ii)(4)(B)(1) allow discharges from individual residential car washes into MS4s (provided the MS4 has determined they are not significant sources of pollutants). Because only charitable non-commercial car washes are referenced in this section, the City is concluding that residential car washes are exempt from permitting requirements. If not, they should be.

City of Phoenix

RESPONSE TO COMMENT 5:

Although the MS4 operator may allow discharges into the MS4 from individual residential car washing, such discharges are not "exempt" from AZPDES regulation if they enter waters of the U.S. However, they are not included as a covered category in the DMGP because ADEQ believes they are better addressed under the discretion of the MS4 operator rather than under permit requirements administered by the state.

No change was made to the permit in response to this comment.

COMMENT 6:

Part I.C.11. In reference to this section, the commenter asked whether discharges from integrity testing of vessels such as water trucks or hydrovac trucks, prior to first use, would be subject to the limitation against DMGP coverage for Vessel Discharges; or authorized under "Other" or "Specific Approvals".

Arizona Department of Transportation

RESPONSE TO COMMENT 6:

The reference to "Vessel Discharges" in Part I.C.11. (originally in the 2010 DMGP) pertained to incidental discharges from normal operation of large commercial boats and ships, which are covered under the NPDES Vessel General Permit issued by the U.S. EPA. Discharges from integrity testing of vessels such as water trucks or hydrovac trucks prior to first use would not be considered "Vessel Discharges" in that sense, and would be eligible for DMGP coverage. Such discharges would fall under DMGP Part I.B.4.a. (hydrostatic testing of new pipes, tanks, or vessels), and would not require Specific Approval (Part I.B.7.) However, they would not be authorized under "Other" (Part I.B.6., *e.g.,* street wash water).

In response to this comment, the reference to "Vessel Discharges" in Part I.C.11. has been removed to prevent confusion. Instead, this section of the 2016 DMGP now cites "application of pesticides to waters of the U.S.", which requires coverage under the AZPDES Pesticide General Permit (No. AZPGP2011-001).

COMMENT 7:

Part I.C.12 – The City requests clarification on which Arizona water quality standard ADEQ is referencing in this section.

City of Phoenix

RESPONSE TO COMMENT 7:

Part I.C.12 is intended to reference both the Arizona Surface Water Quality Standards (SWQS)(18 A.A.C. 11, Article 1) and Aquifer water Quality Standards (A.A.C. R18-11-405 and -406), which are cited in the SWQS. For details please see the response to **TOPIC A**, above.

PART III. NOTICE OF INTENT REQUIREMENTS

COMMENT 8:

Part III.B.10.d – The City requests clarification on the requirement to provide "sampling results or other water quality data that is representative of the proposed discharge, as prescribed by ADEQ." Does this requirement apply to a new Notice of Intent (NOI)? Do amendments to the NOI require the submittal of water quality data?

City of Phoenix

RESPONSE TO COMMENT 8:

Part III.B10.d.pertains to new NOIs. It routinely requires water quality data for proposed discharges under certain circumstances (specific approvals and discharges within ¼ mile of certain water types). For "amendments" of Areawide, Facilitywide, or Projectwide authorizations (Part II.C.2.) that add new sources of discharge to such waters, the draft permit did not specify submittal of water quality data. However, the extra time provided for ADEQ review of such additions was intended partly to accommodate ADEQ requesting water quality data where needed. In the interest of predictability for permittees, ADEQ believes submittals under Part II.C.2. should have the same routine requirements for such data as new NOIs.

In response to this comment, **Part II.C.2**., "Additional discharge points and/or activities", has been modified to incorporate the water quality data requirements stated in Part III.B.10.d.

COMMENT 9:

Part III.B.10 – According to the "Exceptions" section, discharges to the Outstanding Arizona Waters (OAWs) many be included on Table 2 if the locations are not known in advance (such as repairs of line breaks). As discussed in the General Comments section, this statement contradicts Part I.C.4 which states that the general permit does not authorize "discharges resulting directly from water line breaks or leaks." The prohibition at I.C.4 should be removed or qualified as not applicable to potable water systems.

City of Phoenix

RESPONSE TO COMMENT 9:

Please see the response to **TOPIC B**, above, regarding changes that have been made to allow DMGP coverage for discharges resulting directly from potable water line breaks or leaks. Such discharges from other types of pipelines are still excluded (Part I.C.4.). As intended by ADEQ, the "Exceptions" section under Part III.B.10. does not contradict Part I.C.4. The former cites discharges from repairs of water line breaks or leaks, while the latter refers to discharges that come directly from breaks or leaks.

No change to Part III.B.10 was made in response to this comment.

PART IV. SPECIAL CONDITIONS

COMMENT 10:

Part IV.D.2.c.iv – Discharges to perennial, intermittent, or effluent-dependent waters require total residual chlorine (TRC) field monitoring equipment with a sensitivity of 19 µg/L. The most sensitive TRC field monitoring equipment available to the City reports results down to 20 µg/L. With this technology, a non-detect result will be recorded as < 20 µg/L. The City requests amending this section to allow the permittee the opportunity to obtain a non-detect result with the best available field technology.

The first arrow bullet point at the end of this section states that the permittee will achieve the TRC permit limit or a result of "0." As previously mentioned, the best available field technology can provide a result of 20 µg/L. The City requests that the zero (0) be replaced with the term "non-detect."

City of Phoenix

RESPONSE TO COMMENT 10:

Please see Comment / Response No. 15 in this document pertaining to modification of the 19 µg/L sensitivity requirement for TRC field monitoring equipment.

Part IV.D.2.c.iv.primarily addresses an alternative to low-level TRC monitoring for discharges to the waters mentioned. That alternative (in both the 2010 and 2016 permits) is to develop and implement a dechlorination treatment plan with the specified elements, as part of the permittee's Best Management Practices Plan (BMPP). If the permittee pursues this alternative, TRC monitoring is not required unless ADEQ specifies otherwise. The treatment plan may include field screening for TRC.

In the Public Notice draft DMGP, the section cited by the commenter stated that if chemical dechlorination is used, the permittee would determine and apply the chemical dosage needed to meet the permit limit "or to achieve '0' TRC" without excessive chemical use. That wording was intended to describe treatment sufficient to remove chlorine thoroughly. However, ADEQ recognizes the potential for confusion if the permit mentions "0" TRC where analytical monitoring to that level is not required.

In response to this comment, the phrase "to achieve '0' TRC", has been deleted. The proviso now refers to "the chemical dosage needed to meet the permit limit without excessive chemical use".

COMMENT 11:

Part IV.E.2.d – This section requires the permittee to report all instances of noncompliance (not previously reported in section c) at the time of the Notice of Termination (NOT) and/or discharge monitoring reports are submitted. This requirement conflicts with reporting requirement in Part IV.E.2.a and Appendix A, Part B.1. The City requests that this section be removed or rewritten to remain consistent with the other permit requirements.

City of Phoenix

RESPONSE TO COMMENT 11:

ADEQ agrees a revision is needed. In Appendix A, Part B.1., discharge monitoring reports are not always required. For long-term permittees, submittal of NOTs may not be required under DMGP Part II.E. In such cases there would be no trigger for reporting noncompliance as described above.

In response to this comment, Part IV.E.2.d. has been modified so that the noncompliance reporting requirement is not tied to submittal of NOTs or DDMRs. Also see the item addressing **Part IV.E.2.d.** in the "SUMMARY OF CHANGES" at the beginning of this document, regarding annual reporting of such noncompliance.

COMMENT 12:

Part V.P.e.i and iii – These sections use different terms when referring to the waters of the United States and waters of the U.S.

City of Phoenix

RESPONSE TO COMMENT 12:

Thank you for pointing this out. Since the abbreviation for United States ("U.S") is established in Parts I.A. and VII.B., the reference in Part V.P.e.i. has been edited to read "waters of the U.S.".

PART VII. DEFINTIONS, ACRONYMS, AND ABBREVIATIONS

COMMENT 13:

Part VII.A – Phoenix recommends adding the terms Aquatic and Wildlife Effluent Dependent (A&Wedw) and Aquatic and Wildlife Ephemeral (A&We), to the list of acronyms and abbreviations.

City of Phoenix

RESPONSE TO COMMENT 13:

ADEQ agrees with this suggestion. In response, "A&Wedw" and "A&We" have been added to DMGP Part VII.A., Acronyms and Abbreviations, with the corresponding terms spelled out and citations provided for the corresponding regulatory definitions.

COMMENT 14:

Part VII.B. – Update the "Notice of Intent" definition to include the new DMGP number (AZG2015-00X).

RESPONSE TO COMMENT 14:

Thank you for pointing this out. In response to this comment, the defintions of "Notice of Intent" and Notice of Termination" have been updated with the new DMGP permit number (AZG2016-001).

APPENDIX A. MONITORING AND REPORTING PROGRAM

COMMENT 15:

Appendix A, Section A.3 – Table 1 - The most sensitive TRC field monitoring equipment available to the City reports results to 20 µg/L. With this technology, a non-detect result will be recorded as < 20 µg/L. The City requests amending this section to allow the permittee the opportunity to obtain a non-detect result with the best available field technology.

City of Phoenix

RESPONSE TO COMMENT 15:

ADEQ agrees a change to this section is appropriate. In the public notice draft permit and in the 2010 DMGP, Appendix A, Section A.3., Table 1, required a sensitivity of 0.019 mg/L for TRC field screening equipment for discharges to perennial, intermittent, or effluent-dependent waters. That level of sensitivity corresponds with the TRC permit limit for those receiving waters (19 µg/L), and would be necessary to demonstrate compliance through analytical monitoring alone. Laboratory methods for TRC can achieve that limit of detection and lower, but equipment designed for field use may not be able to do so reliably. Due to the short hold times allowed for chlorine samples (15 minutes or less), laboratory analysis may not be feasible.

In these situations the alternative means of compliance is to implement a TRC treatment plan that has been developed as part of the permittee's BMPP, in accordance with DMGP Part IV.D.2.c.iv. (see Comment/Response No. 10 in this document.) Although screening for TRC with equipment sensitivity above 0.019 mg/L would not, by itself, document compliance with the permit limit, it could serve as part of a TRC treatment plan.

In response to this comment, Appendix A, Part A.3., Table 1 (TRC section, for discharges to perennial, intermittent, or effluent-dependent waters) has been revised to specify the limit of detection (LOD) of equipment utilizing Hach Method 8167 or equivalent. Hach Method 8167 is a US EPA-accepted method commonly used in DPD colorimeters designed for field TRC testing, with an approximate range of 0.02 – 2.0 mg/L Cl_2. A footnote has been added to Table 1 explaining the role of such field screening if the equipment sensitivity is above 0.019 mg/L, as discussed above.

COMMENT 16:

Appendix A, Sections A.5. and B.1.a.

Tempe understands that the 4-day continuous discharge "trigger" is related to acute/chronic standard criteria, however the discharge "trigger" of 0.5 million gallons in any one day does not appear to have

a scientific or rule driven basis. Tempe applauds ADEQ for recognizing this during the 2010 DMGP and increasing the "trigger" from 0.25 MGD to 0.5 MGD. Prior to placing a well into potable service, directing a well to a water treatment plant, or monitoring a well for SDWA compliance, the well is purged. Depending on various factors well purge event duration and volume changes. Tempe has modified drinking water well purging processes to accommodate the DMGP "trigger" but has found meeting the 0.5 MGD is not always possible and subsequently creates a significant amount of unnecessary and costly activity. The following must occur for each discharge greater than 0.5 MGD:

- Field site personnel make flow determinations. This information is conveyed to Tempe's Environmental Sampling Group.
- Tempe's Environmental Sampling Group schedules a sampler to conduct field sampling and take photographic documentation (if needed).
- The analytical sample(s) or Field Parameter Chain of Custody is then submitted to Tempe's State Certified Laboratory.
- The Laboratory analyzes samples and/or conducts QA/QC review of Field Parameter results and issues a report.
- The Laboratory report is reviewed by Tempe's Regulatory Compliance Group.
- A DDMR is prepared and reviewed.
- A meeting with the designated signatory is scheduled.
- Once signed the DDMR is submitted to ADEQ or kept on-file.

Each of these events creates a workload increase for field staff, laboratory staff, compliance staff, administrative staff and management staff and is an unnecessary paperwork and activity burden. Over the course of a permit term the cost to perform these functions is not negligible. Additionally, the activities above provide no known environmental value. All drinking water wells are regulated and monitored under conditions of the SDWA. All monitoring results are available for review at Arizona's Safe Drinking Water Information System database (http://www.azdeq.gov/environ/water/dw/sdwis.html). Tempe has not identified any AZPDES parameter violations and has not experienced any DMGP violations as a result of monitoring and/or field analysis conducted under existing permit requirements.

Tempe recommends that this 0.5 MGD "trigger" be removed or significantly increased and greatly appreciates consideration of this resource saving and efficiency request.

City of Tempe

(NOTE: In a subsequent discussion with ADEQ, the commenter confirmed this comment was intended to request reduction or removal of monitoring requirements for discharges from potable sources.)

RESPONSE TO COMMENT 16:

The "trigger" mentioned by the commenter is the DMGP requirement for reporting of monitoring results and photographic documentation (in some cases), for discharges conducted continuously for longer than four (4) days, or exceeding 0.5 million gallons in any one day. In the PN draft permit, the requirement for such reporting was removed for certain discharges from potable water systems to ephemeral and effluent-dependent waters (Appendix A, Part B.1.c.ii. and iii.). These changes were

subject to restrictions pertaining to “constituents of concern” (COCs), chlorine, and/or other halogenated disinfectants. In both the 2010 DMGP and the 2015 draft permit, photographic documentation has not been required for discharges made directly to concrete-lined canals or conveyances consisting of pavement, underground piping, or other impervious material.

In summary, the requirements in the PN draft DMGP for discharges from potable water systems were as follows. They were the same as in the 2010 DMGP except for those pertaining to reporting.

- Discharge monitoring according to Appendix A and the “Monitoring Requirements” sections of Tables A - D thereof, as applicable; and records retention per Appendix A, Part B.4. In the tables, the required monitoring was for flow rate, duration of flow, total residual chlorine (TRC) in some cases, and COCs as defined in Part VII.A.- B.), if any. Summary statements were allowed in lieu of per-discharge monitoring for certain types of discharges. For discharges to receiving waters with a TRC permit limit of 19 µg/L, a TRC treatment plan as outlined in DMGP Part IV.D.2.c.iv could serve as an alternative to monitoring.
- Reporting of monitoring results for discharges requiring chlorine monitoring or involving COCs, and exceeding the “trigger” described above.
- Reporting of monitoring results for discharges to perennial, intermittent, or impaired waters, or Outstanding Arizona Waters, and exceeding the “trigger” described above.
- Photographic documentation for discharges exceeding the “trigger” described above, EXCEPT those made directly to concrete-lined canals or conveyances consisting of pavement, underground piping, or other impervious material.

Decision and rationale:

Upon consideration of the above comment, ADEQ finds that the water quality and potential impacts of certain discharges from potable water systems can be adequately controlled through measures other than routine monitoring of numeric parameters. The main water quality concerns pertaining to such discharges are TRC, potential erosion, streambed scour, sedimentation, and COCs if any. ADEQ believes TRC and potential erosion, scour, and sedimentation are better addressed through implementation of the permittee’s Best Management Practices Plan (BMPP), rather than through fixed requirements for sampling, flow monitoring, and photo documentation.

With regard to COCs, the monitoring requirement applies only when they are known or suspected to be present. Prior monitoring results that are representative of the discharge may be sufficient for ADEQ to determine whether or not the constituent must actually be considered a COC for the discharge. (COC means a parameter that has the potential to be present in the discharge at levels exceeding a permit limit or action level, or an applicable water quality standard.)

Accordingly, unless specified otherwise in writing by ADEQ, the 2016 DMGP will not require the permittee to monitor numeric parameters or conduct photo documentation of discharges from potable water systems (including wells approved for drinking water use), if the following conditions are met:

a. Either (i) the discharges are initially released into concrete-lined canals or conveyances consisting of pavement, underground piping, or other impervious material; or (ii) the permittee ensures the BMPP is fully implemented for minimizing erosion, streambed scour, and sedimentation from the discharges.

b. For discharges that have contained chlorine or other halogenated disinfectant at levels exceeding the applicable permit limit for TRC, the BMPP contains a treatment plan specifying dechlorination methods that will ensure compliance. For discharges to perennial, intermittent, or effluent-dependent waters, the treatment plan must contain the elements outlined in DMGP Part IV.D.2.c.iv. The permittee must ensure the appropriate TRC treatment plan is implemented for the discharge.

c. There are no constituents of concern (COCs) (as defined in Part VII.B. of this permit) associated with the discharge. If potential COCs have been identified, ADEQ may allow a specific exception to monitoring if the permittee submits sufficient representative data to demonstrate the constituent is unlikely to exceed permit limits, action levels, or water quality standards.

d. Site conditions are monitored as necessary to ensure the appropriate control measures are implemented for the discharge, pursuant to the permittee's BMPP.

In response to this comment, corresponding changes have been made by the addition of new item 7 in Appendix A, Part A of the permit. The new item is referenced in Appendix A, Tables A – D.

COMMENT 17:

Appendix A, Section B.1.a.ii – The City requests clarification of the reporting requirement in this section. Is the frequency limited to the specific discharge event?

City of Phoenix

RESPONSE TO COMMENT 17:

For reference, the cited requirement reads,

> "If the permittee monitors any constituent of concern more frequently than required by the permit, using wastewater test procedures approved under 40 CFR 136 or other method specified in this permit, the results of this monitoring must be included in the calculation and reporting of the data submitted in the DDMR."

Unless stated otherwise by ADEQ for a specific case, the phrase "more frequently than required by the permit" refers to monitoring conducted for a specific discharge event. The frequency required by the permit is based on the parameter, type of receiving water, and discharge activity involved. If the City needs further clarification please contact ADEQ's De Minimis General Permit Program staff.

No change was made to the permit in response to this comment.

COMMENT 18:

Appendix A, Tables A – D. The first paragraph in each table states that ADEQ or the permittee may identify constituents of concern (COC) which could result in additional monitoring for a given discharge. The City requests clarification on how the COCs are to be identified by ADEQ and/or the permittee.

City of Phoenix

RESPONSE TO COMMENT 18:

For reference, the introductory paragraph for each table reads,

> "Pursuant to Part IV.C. of this permit, the following are discharge limitations and action levels for some parameters that may be of concern for De Minimis discharges. Not all of these are required for monitoring for a given discharge, unless specified by ADEQ or identified as constituents of concern (COCs) by ADEQ or the permittee. However, the permittee is responsible for ensuring that these limits are met and may wish to document compliance."

Identification of a COC could occur if ADEQ or the permittee has reason to believe that a constituent has the potential to be present in the discharge at levels exceeding the applicable numeric or narrative water quality standard, or a limit or action level specified in the permit. Such findings would generally be based upon prior knowledge of potential COCs from existing water quality data or other information such as proximity to a groundwater remediation site. The permittee is not required to test for every parameter listed under "Discharge Limitations" and "Action Levels", but should conduct monitoring when there is reason to believe these may be exceeded.

No change was made to the permit in response to this comment.

COMMENT 19:

Appendix A, Tables A – D. Oil & grease has an AL of 10 mg/L or film/iridescence on the surface of discharge. According to **Appendix A, Section A.3**, monitoring for oil and grease may be conducted in the field by means of visual observation. The permittee is unable to quantify the concentration of oil and grease, therefore, the City recommends utilizing the visual monitoring techniques for these requirements instead of the numeric AL.

City of Phoenix

RESPONSE TO COMMENT 19:

As the commenter mentions, monitoring for oil and grease may be conducted in the field by means of visual observation for a film or iridescent appearance on the surface of the discharge. The permittee is not required to quantify the concentration of oil and grease based on visual observation monitoring. However, the numeric action level (AL) of 10 mg/L (the threshold for causing a sheen /iridescence) is used in cases where the permittee conducts laboratory analysis for oil and grease, to substantiate visual findings. While laboratory results may not be received in time for action on the particular discharge that was sampled, these results may signal the need to modify the permittee's BMPP for future similar discharges.

In response to this comment, a sentence has been added to Appendix A, Section A.3. under "**Oil and Grease**" to clarify the type of results to be recorded if the permittee conducts visual observation monitoring for oil and grease; *i.e.*, the results must indicate whether or not a surface film was observed. The numeric AL has been retained in Tables A – D for use when laboratory analysis is conducted.

COMMENT 20:

Appendix A, Tables A – D. The AL for methyl tertiary-butyl ether (MTBE) is listed as 20 µg/L. The permittee is unable to quantify the concentration of MTBE during the discharge event, therefore, the City recommends utilizing the odor monitoring techniques for these requirements instead of the numeric AL.

City of Phoenix

RESPONSE TO COMMENT 20:

20 ug/L is considered the threshold MTBE concentration that would cause a detectable odor and thus exceed the narrative standard for odor. However, monitoring for this parameter is not required unless it has been identified as a potential COC. In that case laboratory analysis may be conducted prior to the discharge to determine the actual concentration. In cases where MTBE was not originally considered a COC but an odor of MTBE is noticed during the discharge, that would be a sufficient indication that the 20 ug/L action level has been reached or exceeded. Subsequent lab testing could then be done to verify this, using the numeric AL.

No change was made to the permit in response to this comment.

COMMENT 21:

Draft Fact Sheet, Part III.B – In the last paragraph of this section explaining the "Notes and Exceptions," ADEQ states that "the use of Table 2 for discharges to OAW is restricted." This statement conflicts the DMGP and should be removed from the fact sheet. ADEQ states in Part III.B.10 "Exceptions" "for discharges to OAWs, Table 2 may be used only for system repairs for which the locations are not known in advance."

City of Phoenix

RESPONSE TO COMMENT 21:

ADEQ does not believe the statement in the Fact Sheet conflicts with Part III.B.10., under "EXCEPTIONS". The statement was intended to convey that the use of summary information (currently provided in Table 2 of the NOI) for discharges to OAWs is restricted to certain types of activities. In response to this comment, the Fact Sheet wording has been revised to clarify this.